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September 10, 2008

The Honorable Noel L. Hillman  
United States District Court  
for the District of New Jersey  
Mitchell H. Cohen U.S. Courthouse  
1 John F. Gerry Plaza, Room 6020  
Camden, New Jersey 08101

Re: In re: Pet Foods Products Liability Litigation, MDL No. 1850

Dear Judge Hillman:

We are writing jointly to request a short extension of the comment, objection and opt-out periods for a limited number of claimants who have inquired about or made claims for future

IN RE: PET FOOD PRODUCTS LIABILITY LITIGATION  
expenses.

Doc. 201

It is undisputed that the Settlement Agreement does not cover future economic damages, such as ongoing medical costs or special food that must be purchased beyond the claims period. The Settlement Agreement provides that claims may be submitted for economic damages that have been "incurred" because of events relating to the purchase or consumption by pets of Recalled Pet Food. Claims for future expenses are inherently speculative because of many factors that may affect the future health or life of a pet, and they also create an opportunity for fraud that could

deprive other claimants of a recovery. Indeed, two objections have been filed regarding this aspect of the settlement, and they will be addressed by the Parties at the appropriate time.

This request arises because early in the claims process, before any objections had been filed, counsel for certain class members raised with Plaintiffs' Co-Lead Counsel the issue of whether future damages were covered under the Settlement Agreement. At that time, Plaintiffs' Co-Lead Counsel responded that a claimant could submit such a claim to the Claims Administrator for consideration in the Claims Administrator's discretion, although there was no guarantee that future economic damages would be paid. In an abundance of caution and to avoid any potential for misunderstanding, Plaintiffs' Co-Lead Counsel want to communicate to the potentially affected persons as promptly as possible that future expenses are not covered under the Settlement. Defendants' Liaison Counsel concur.

In an effort to understand the extent of the issue, Plaintiffs' Co-Lead Counsel asked the Claims Administrator to determine the number of claims and inquiries that have been made that in any way referred to future expenses. There have been relatively few -- the Claims Administrator has confirmed that approximately 284 of about 7,500 claims, or 3.8% of all claims submitted to date, refer in some way to expenses to be incurred in the future. Most of these claims are vague and fail to provide a specific dollar amount for any future expenses or the time period over which these expenses would be incurred. In addition, fewer than 40 inquiries have been made about the recoverability of future expenses.<sup>1</sup>

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<sup>1</sup> If the Court requires it, a declaration in support of these assertions will be submitted.

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Further, because of the passage of the opt-out deadline (August 15, 2008) and the impending comment period deadline (September 12, 2008), the Parties propose giving these claimants additional time, until September 30, 2008, in which to comment on, object to or opt out of the settlement. This short, limited extension will ensure that anyone who inquired about or filed a claim for future expenses believing they would be considered will have a full opportunity to reconsider their decision to remain in the class, opt-out or comment on the settlement. We also note that a new FAQ has been added to the Settlement website that specifically advises readers that future expenses will not be compensated.

Finally, we ask for approval to provide notice and to extend the deadlines for commenting, objecting or opting out to one individual who previously sent a claim to Crawford & Company, but does not appear to have received direct notice of the Settlement by mail.<sup>2</sup>

Attached as Exhibit 1 is a proposed Order Extending the Comment, Objection and Opt-Out Periods Until September 30, 2008 for Certain Claimants that is applicable only to those claimants who have made inquiries, or who submitted claims, that refer to future expenses and to the individual who submitted a claim form to Crawford & Company but did not receive direct notice by mail, and that provides that these claimants be promptly notified of these extended deadlines.

Attached as Exhibit 2 is the proposed letter that we ask that the Claims Administrator be permitted to send to those claimants that have made inquiries, or submitted claims, referring to future expenses, notifying them that reimbursement for future expenses is not available under the Settlement Agreement and that the deadlines for opting out from, commenting on or objecting to the

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<sup>2</sup> For privacy reasons, this individual's name is not provided in this letter, but is known by Co-Lead Counsel for Plaintiffs and Liaison Counsel for Defendants.

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Settlement Agreement have been extended for them to September, 30, 2008. Finally, attached as Exhibit 3 is the proposed letter to the one claimant in the U.S. who did not receive notice of the Settlement by U.S. Mail but should have.

Thank you very much for your prompt consideration and attention to this matter. If you have any questions, please let us know.

Respectfully yours,

/s Lisa J. Rodriguez

Lisa J. Rodriguez  
Liaison Counsel for Plaintiffs

cc: Kenneth A. Wexler, Co-Lead Counsel for Plaintiffs  
Sherrie R. Savett, Co-Lead Counsel for Plaintiffs  
William M. Audet, Co-Lead Counsel for Plaintiffs  
Scott A. Kamber, Co-Lead Counsel for Plaintiffs  
Stuart A. Davidson, Co-Lead Counsel for Plaintiffs  
Steve W. Berman, Co-Lead Counsel for Plaintiffs  
Mary E. Gately, Liaison Counsel for Defendants  
Mark C. Goodman, Liaison Counsel for Defendants  
Craig A. Hoover, Liaison Counsel for Defendants  
D. Jeffrey Ireland, Liaison Counsel for Defendants

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

IN RE PET FOOD PRODUCTS LIABILITY : CASE NO. MDL Docket No. 1850  
LITIGATION : (All Cases) Case No. 07-2867 (NLH)  
: :  
: Judge Noel L. Hillman  
: :  
: **ORDER EXTENDING THE  
COMMENT, OBJECTION AND  
OPT-OUT PERIODS UNTIL  
SEPTEMBER 30, 2008 FOR  
CERTAIN CLAIMANTS**

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Upon the request of Co-Lead Counsel for Plaintiffs and Liaison Counsel for Defendants, this Court ORDERS that:

- (a) the Claims Administrator shall give notice to those claimants that have submitted claims that refer to, or have inquired about the availability of reimbursement for, future expenses, that they have until September 30, 2008 to comment on, object to, or opt out of the Settlement;
- (b) the Claims Administrator shall give notice to the individual who previously submitted a claim form to Crawford & Company but has not received direct notice of the Settlement by mail that he has until September 30, 2008 to comment on, object to, or opt out of the Settlement; and
- (c) the comment, objection and opt-out periods for those claimants is extended until September 30, 2008.

SO ORDERED:

Dated: \_\_\_\_\_

JUDGE NOEL L. HILLMAN

# EXHIBIT 2

**[CLAIM ADMINISTRATOR LETTERHEAD]**

Re: *In Re Pet Food Products Liability Litigation,*  
MDL Docket No. 1850, Civil Action No. 07-2867 (NLH) (All Cases)

Dear \_\_\_\_\_:

You are receiving this letter because, in connection with the Settlement of the pet food recall lawsuits, you previously submitted a Claim Form to us seeking the reimbursement of, or inquired about the availability of, future veterinary or other expenses or costs relating to your purchase or your pet's consumption of Recalled Pet Food Products. On behalf of the Parties, we write to make clear that reimbursement for future costs and expenses is not available under the terms of the Parties' Settlement Agreement.

You should know that you have several options for proceeding.

You may still participate in the Settlement and rely on the Claim Form you submitted previously. If you want to participate and rely on this Claim Form, you do not need to do anything. Your claim will be considered in its entirety, excluding any claim for future expenses.

You also may participate in the Settlement and appear at the Final Approval Hearing, or comment on or object to the proposed Settlement. The date for filing a written objection or comment, and/or notice to appear has been extended for you to September 30, 2008. If you wish to comment on or object to the Settlement, or file a notice to appear, you must follow the procedures to do so described in the Full Notice by no later than September 30, 2008. The Full Notice is available at [www.petfoodsettlement.com](http://www.petfoodsettlement.com), or may be obtained by contacting the Claims Administrator at the contact information below. A copy of your comment, objection

and/or notice must also be sent by first class mail to one of the attorneys for the Settlement Class and one of the attorneys for Defendants, no later than September 30, 2008. A list of the attorneys is provided on the Full Notice.

If you do not want to participate in the Settlement, the Court has extended the time you have to exercise your right not to participate in the Settlement. If you do not wish to participate in the Settlement, you must send a written exclusion request, containing your name, address and telephone number, to the Claims Administrator at the address listed below, postmarked no later than September 30, 2008. If you request to be excluded from the Settlement Class, you cannot make a claim in, or object to, this Settlement.

Claims Administrator  
Pet Food Settlement  
c/o Heffler, Radetich & Saitta, LLP  
P.O. Box 890  
Philadelphia, PA 19105-0890

Toll Free: 1-800-392-7785

You must mail your request for exclusion postmarked by September 30, 2008. You cannot exclude yourself on the phone, by e-mail or at the settlement website. **IF WE DO NOT HEAR FROM YOU BY SEPTEMBER 30, 2008, THEN YOU WILL CONTINUE TO BE INCLUDED IN THE SETTLEMENT CLASS AND YOUR CLAIM FORM FOR ECONOMIC DAMAGES PREVIOUSLY INCURRED WILL BE CONSIDERED BY THE CLAIMS ADMINISTRATOR.**

If you have any questions, please contact us directly.

Sincerely,

Claims Administrator

cc: [Plaintiffs' liaison counsel  
Defendants' liaison counsel]

# **EXHIBIT 3**

**[CLAIM ADMINISTRATOR LETTERHEAD]**

Re: *In Re Pet Food Products Liability Litigation,*  
MDL Docket No. 1850, Civil Action No. 07-2867 (NLH) (All Cases)

Dear \_\_\_\_\_:

On May 30, 2008, the United States District Court for the District of New Jersey granted preliminary approval of a proposed class settlement for individuals who purchased, used or obtained, or whose pets used or consumed, pet food and/or pet treats that were recalled between March 16, 2007 and the present because they allegedly contained contaminated wheat gluten or rice protein concentrate. Our records indicate that you did not previously receive direct notice of this Settlement by mail. Accordingly, the deadlines for you to comment on, object to, or exclude yourself from the proposed Settlement provided in the attached Notice have been extended to September 30, 2008.

If you have any questions, please contact us directly.

Sincerely,

Claims Administrator Pet Food Settlement  
c/o Heffler, Radetich & Saitta, LLP  
P.O. Box 890  
Philadelphia, PA 19105-0890  
1-800-392-7785  
[www.petfoodsettlement.com](http://www.petfoodsettlement.com)